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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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EXAMINER

HARTMANN, GARY S

ART UNIT PAPER NUMBER

3671

DATE MAILED: 03/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/784,693

Applicant(s)

NEGUELOUA, G. I.

Examiner

Gary Hartmann

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- ☐ Interview Summary (PTO-413) Paper No(s). _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

1. In view of the appeal brief filed on 2/14/2003, PROSECUTION IS HEREBY REOPENED. A new rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marble (U.S. Patent 2,016,968) in view of Jobe et al. (U.S. Patent 6,253,514) and Barton et al. (U.S. Patent 5,088,260). Marble discloses a cap between adjacent blocks (5, 6) and comprising a cap portion (8), a leg portion (9) insertable into fluidized sealant material (7). Marble does not teach the ridges positioned on the underside of the cap portion. Jobe et al. teaches a joint cap which includes ridges (adjacent 38) positioned on the underside of the cap portion in order to

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accommodate adhesive (column 5, lines 45-46). Barton et al. teach increasing surface area improves the adhesive bond in a joint structure (column 3, lines 39-42, for example). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the ridges of Jobe et al. with the cap of Marble in order to improve surface area contact with the adhesive, as taught by Barton et al.

Marble teaches lead as a material of construction (column 2, lines 22-24).

Marble includes the pointed end (10).

Marble positions the seal between horizontal and vertical surfaces (Figure 4).

Marble discloses the method steps.

4. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marble (U.S. Patent 2,016,968) in view of any of: Hahn (U.S. Patent 6,228,507); Treister et al. (U.S. Patent 6,170,214); Negola et al. (U.S. Patent 6,161,353); Parkinson (U.S. Patent 5,715,643); Boyce (U.S. Patent 5,667,334); Speer et al. (U.S. Patent 5,460,115); Hughes (U.S. Patent 5,197,819); Montalbano (U.S. Patent 5,078,538); and/or Winter, IV (U.S. Patent 4,833,855). As discussed above, Marble teaches all of the claim limitations except for the ridges. Increasing surface area in order to improve adhesion is extremely well known and, therefore, not patentable. For example, each of Hahn, Treister et al., Negola et al., Parkinson, Boyce, Speer et al., Hughes, Montalbano, and Winter, IV specifically disclose that ridges increase surface area; thereby improving adhesion between in an article attached to a static structure (Hahn, 33 and column 4, lines 45-57; Treister et al., 33 and claim 11; Negola et al., abstract and part b of claim 1; Parkinson, column 6, lines 11-14; Boyce, column 1, lines 14-16; Speer et al., 16, 18, and column 4, lines 13-19; Hughes, column 2, lines 21-23; Montalbano, column 2, lines 60-63; and Winter,

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IV, column 2, line 65 through column 3, line 4). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used ridges with Marble in order to increase surface area of the cap, as taught by each of Hahn, Treister et al., Negola et al., Parkinson, Boyce, Speer et al., Hughes, Montalbano, and Winter, IV.

Response to Arguments

5. Applicant's arguments filed 2/14/2003 have been considered but are moot in view of the new grounds of rejection.


Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Hartmann whose telephone number is 703-305-4549. The examiner can normally be reached on Monday through Friday, 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached on 703-308-3870. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3597 for regular communications and 703-305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

gh
March 13, 2003



Gary Hartmann
Primary Examiner
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